

## REMARKS

The Office Action dated December 3, 2004, has been reviewed carefully and Claim 1, the sole independent claim, along with dependent Claims 2 and 12 have been amended in order to place the application in condition for allowance. Reconsideration of the initial rejection and allowance of the amended claims are respectfully requested on the basis of the following remarks.

### THE INVENTION

The present invention has provided a unique method for making a decorative arrangement by providing a wet foam, partially curing the wet foam to create a nodule as defined at Page 5, Line 22 of the Specification, which is formed into a desired shape, followed by securing a plurality of decorative elements as defined at Page 5, Line 29, of the Specification to the nodule prior to the wet foam (as defined on Page 6, Line 5 of the Specification) becoming rigid foam. The decorative element supporting nodule is then dried to convert it to rigid foam thereby creating the decorative arrangement. All of these features of the method are recited in amended independent Claim 1. Dependent Claims 2 through 23 depend directly or indirectly from amended Claim 1.

### SPECIFICATION AND CLAIM OBJECTION

The Examiner's alertness in noting the obvious inaccuracy in the Specification at Page 2, Line 24, and in Claim 2 has been appreciated and appropriate amendments have been made.

### CLAIMS 1-23, SECTION 103(a)

These claims were rejected under Melander in view of Harris.

Specific attention was directed toward Claims 1, 2, 4, 5 and 9 which were said to disclose a wet foam, creating and shaping a nodule and securing decorative elements to the nodule with the foam being dry, rigid foam in the final state. The Examiner has

acknowledged that Melander does not show a plurality of decorative elements being secured to the nodule prior to the nodule becoming rigid foam, but this inadequacy was said to be made up for by the Harris teaching. Applicant respectfully disagrees with this analysis.

Melander, which issued in 1967, clearly contemplates the traditional prior art system wherein at the time of insertion of the articles into the foam, the foam is a rigid foam. Referring, for example, to Column 1, Lines 29 through 35, it is clearly expressed that the articles to be inserted involve “puncturing” the holder with a portion of the article such as a stem of a flower. This means that prior to any insertion of a flower, the foam was rigid. The fact that a wet foam might be introduced into a holder such as that shown in Figure 3 to create the rigid foam 4 after which the flower is introduced does not alter the fact that this teaches away from Applicant’s invention as set forth in Claim 1 wherein a wet foam is provided, it is partially cured to create a nodule which is shaped after which a plurality of decorative elements is secured to the nodule prior to the wet foam becoming rigid foam and subsequently drying the nodule to convert to rigid foam. This is diametrically opposite to what one skilled in the art would be taught by the Melander reference. Melander contemplates the foam being placed in wet form in the holder 1 as shown by element 3 in Figure 3 and being foamed in situ to be enlarged to element 4 shown in Figure 5, for example.

Harris discloses a package for shipping and storing articles, such as cut flower arrangements. It requires a combination of a water-containing, absorbent foam block 18, which receives the flower stem by having the stem pierce the same and an upper block of non-absorbent, relatively rigid foam. Outer packaging is also provided. Harris not only teaches the requirement of a sealing foam block 20 overlying a water-containing, absorbent foam block 18, but states that the flower stems 38 would be firmly held in place by non-absorbent foam block 20. His first option is to pour the foam for block 20 in place after

the flower stems 38 have been inserted into block 18. He also offers the option of the flowers being “poked” through the foam block 20 into the foam block 18. His teaching, therefore, requires the two distinct blocks 18 and 20 each receiving the stems for purposes of maintaining a sealed moisture chamber underlying the upper block. See, for example, Figure 3.

Further, it is respectfully submitted that one skilled in the art, confronted with the teachings of Melander, which is clearly directed toward the rigid foam receiving flowers after the foam has become rigid and the specific two-tier different material and different function blocks 18 and 20 of Harris in a shipping or storage container, would not be induced to provide Applicant’s method as provided in Claim 1 as the teachings are substantially different from each other and different from Applicant’s claimed method.

The case of In re Imperato 179 USPQ 730 (CCPA 1973) states at Page 732:

With regard to the principal rejection, we agree that combining the teaching of Schaefer with that of Johnson or Amberg would give the beneficial result observed by appellant. However, the mere fact that those disclosures can be combined does not make the combination obvious unless the art also contains something to suggest the desirability of the combination.... We find no such suggestion in these references.

The teaching of this case is applicable in the present context.

#### Dependent Claims

With respect to Claim 2, there is no teaching or suggestion in either reference, whether considered individually or in combination, to make the decorative arrangement by sequentially applying portions of at least some of the decorative elements to the nodule prior to complete drying of the nodule to convert it to said rigid foam.

With regard to Claim 3, placing the wet foam on a film having a release surface is not taught or suggested by either reference and each in fact teaches away from such a practice as it teaches providing the foam within a container.

With respect to dependent Claim 4, surface mounting of a decorative element as defined in the Specification is not taught in either reference, both of which contemplates stems of flowers penetrating the nodule.

As to Claim 5, it is respectfully submitted that there is no teaching in either reference of wetting the foam prior to the partial curing.

The features of Claims 6 and 7 are not asserted as being independently patentable apart from the claims from which they depend directly or indirectly.

With respect to Claim 8, it is respectfully submitted that neither the prior art nor those of ordinary skill in the art would know to wet the nodule prior to subsequent drying.

The features of Claims 9, 10 and 11 are not asserted as independently being patentable apart from their dependency on other claims.

Dependent Claim 12 has been amended so as to recite the wet foam is a foam which when partially cured will secure the decorative elements in the arrangement. In the context of Melander, his securing is achieved by the underlying absorbent block 18 in combination with the rigid sealing overlying block 20 as contrasted with the wet foam having this capability per se.

The features of Claims 13 and 14 are not asserted as independently contributing to patentability apart from their dependency on other claims.

The feature of Claim 15 which recites the preferred temperature and time for drying the wet foam is not taught or suggested in either reference and it is respectfully submitted that it is not obvious.

The features of dependent Claims 16 and 17 are not asserted as being independently patentable apart from their dependency on other claims.

With regard to Claim 18, there is nothing in the teaching of either reference reciting employing additional ornaments as defined in the Specification at Page 6, Line 1, in establishing the decorative arrangement.

With regard to Claim 19, there is absolutely no suggestion that either reference of doing a further wet foam application and applying additional decorative elements. Claim 20 defines the recital that the additional wet foam is applied after the first wet foam has at least partially dried to become rigid foam. It is respectfully submitted there is nothing obvious to one skilled in the art regarding this feature. Further, there is no teaching in the art of record to create depressed portions within the surface of the nodule as in Claim 21.

The feature of Claim 22 is not asserted as being independently patentable apart from its dependence on amended Claim 1.

With regard to Claim 23 and Column 4, Lines 60 to 63, of the Harris patent, the reference as understood is to the actual color of the foam as distinguished from any teaching or suggestion of applying a paint to the exterior of the nodule.

#### MISCELLANEOUS

The prior art made of record, but not relied on, has been reviewed, but is not believed to be more relevant than the applied art.

#### SUMMARY AND CONCLUSIONS

It is respectfully submitted for the foregoing reasons that amended Claim 1 along with amended Claims 2 and 12 and all of the dependent Claims 2-23, which depend directly or indirectly from Claim 1, are patentably distinct from the applied art, whether considered individually or in combination, and that the application is now in proper form for issuance of a Notice of Allowance. Such action is respectfully requested at an early date.

Respectfully submitted,



Arnold B. Silverman  
Attorney for Applicant  
Registration Number 22,614

Telephone: 412-566-2077  
E-mail: ipmail@eckertseamans.com